

Bringing GSP Into the Digital 21st Century

Updating GSP for the 21st Century

Congress enacted the Generalized System of Preferences (GSP) in Title V of the Trade Act of 1974 to create economic opportunities for developing economies by offering unilateral tariff preferences and access to the US market. GSP beneficiary countries must meet several conditions, including offering equitable and reasonable access to their markets and supporting accountable governance, consistent with US democratic values.

The GSP system should be reformed to support open and forward-looking digital trade policies to promote economic growth in the developing world and to advance US democratic and economic values

The GSP statute has not been updated to reflect the economic and political realities of the Digital 21st Century. Today, some GSP beneficiary countries are adopting policies of digital protectionism and digital authoritarianism. This includes: (1) blocking the cross-border flow of data; (2) imposing unnecessary data localization mandates; and (3) closing digital markets.

Such digital trade barriers undermine economic opportunities for citizens and companies in the implementing countries, and harm US workers and exporters. These barriers also undermine the effectiveness of the GSP program and US foreign assistance programs, while undercutting the political and economic freedoms that these programs should advance.

GSP should be reformed to support open and forward-looking digital trade policies for the Digital 21st Century.

Economic Opportunity and Development

US support for open and forward-looking digital trade policies in GSP beneficiary economies drives economic empowerment and resilience – building digital inclusion, increasing financial access, and opening foreign markets.

Cloud-based software solutions and marketplaces, which often depend on cross-border data flows, are often the primary means for micro, small- and medium-sized enterprises (MSMEs) in developing countries to access international pricing data, customer and supplier contacts, trade financing, and other foreign market opportunities.

As the US Agency for International Development (USAID) has stated, “[m]any governments choose to adopt protectionist digital trade policies (e.g., data-localization, forced transfer of technology, the use of standards that favor domestic industry, and failure to enforce intellectual property rights). These policies, when combined with inefficient cross-border trade processes ... impair trade that contributes to economic growth.”

Digital trade benefits development

Digital enablement in GSP beneficiary countries – including through open and forward-looking digital trade policies – enhances “the potential to spur economic growth, improve development outcomes, transform health delivery, lift millions out of poverty, and ultimately move us closer to ending the need for foreign assistance. ... For example, by enabling digital financial services, the Gross Domestic Product (GDP) of emerging economies could increase by more than \$3.5 trillion, or six percent, by 2025. E-commerce could increase international trade by up to \$2.1 trillion by 2030.” USAID Digital Strategy, 2020-2024, pp. 6, 9.

¹ USAID, Digital Strategy 2020-2024, p. 19, at: <https://www.usaid.gov/usaid-digital-strategy>

Transparent and Accountable Governance

In an era of spreading “digital authoritarianism,” which USAID and congressional reports define as the governmental misuse of digital tools to repress civil and economic freedoms, US government support for open and forward-looking digital trade policies will help bolster core democratic policies, including responsible, transparent and accountable governance and a respect for human rights and economic freedoms.²

Some GSP beneficiaries are leveraging digital tools in an authoritarian manner, drawing on models that undermine privacy and other civil rights and that are promoted by countries that benefit from exports of surveillance technologies.³

US support for open and forward-looking digital trade policies contributes directly to US development goals – notably USAID’s goals of supporting “open, secure, and inclusive digital ecosystems” that increase “self-reliance in emerging market economies” and that “preserve and protect the rights and agency of individuals.”⁴

Digital Market Access and a Level Playing Field for US Exports

GSP requires beneficiary countries to offer “equitable and reasonable access to [their] markets.” GSP also addresses barriers to US services exports. Congress should update the law to address digital trade barriers.

Many GSP beneficiaries are imposing digital trade barriers that appear to be modeled on the 2017 Cybersecurity Law of the People’s Republic of China (PRC), which blocks the cross-border movement of information and imposes other barriers to US digital exports. This PRC Law has been followed by analogous digital trade restrictions in Vietnam, Indonesia, Pakistan, India, and other countries.⁵

When GSP beneficiary countries adopt digital trade barriers, they harm the US economy and US workers
When GSP beneficiary countries adopt open and forward-looking digital trade policies that provide a level playing field, they spur growth at home and a healthy economic relationship with the United States.

BSA Recommendations

That the GSP statute be amended to consider whether a beneficiary developing country has imposed barriers relating to digital trade.

² *Id.*, p. 14; See also Senate Foreign Relations Committee – Minority Staff Report, *The New Big Brother – China and Digital Authoritarianism* (July 21, 2020) (hereinafter “*China and Digital Authoritarianism*”), at: <https://www.foreign.senate.gov/imo/media/doc/2020%20SFRC%20Minority%20Staff%20Report%20-%20The%20New%20Big%20Brother%20-%20China%20and%20Digital%20Authoritarianism.pdf> ; House Ways & Means – Minority Staff Report, *China Task Force Report*, p. 4 (Sept. 2020), at https://republicans-waysandmeansforms.house.gov/uploadedfiles/china_task_force_report.pdf

³ *China and Digital Authoritarianism*, pp. 30-31 (describing concerns regarding China’s “providing countries with social control systems that run on exported digital technologies.... [These] governments ... frequently ... pass cybersecurity laws very similar to those in China.”)

⁴ USAID Digital Strategy, 2020-2024.

⁵ See BSA Submission to USTR for National Trade Estimate (Oct. 2020), at <https://www.bsa.org/files/policy-filings/10292020bsa2020ntesubmission.pdf>